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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/632,154

08/03/2000

Dave Leahy

WORLDS CON

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7590

08/08/2006

GENERAL PATENT CORPORATION INTERNATIONAL  
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EXAMINER

NGUYEN, CAO H

ART UNIT

PAPER NUMBER

2173

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/632,154

Applicant(s)

LEAHY ET AL.

Examiner

Cao (Kevin) Nguyen

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08/24/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-8, 18-20, 22-26, 28, 32, 33, 35, 36 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8, 18-20 and 22-24 is/are allowed.
- 6) ☒ Claim(s) 25-26, 28, 32-33, 35-36 and 38-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Request for Continued Examination***

This Office action is responsive to the Request for Continued Examination (RCE) filed under 37 CFR §1.53(d) for the instant application on 11/28/05. Applicants have properly set forth the RCE, which has been entered into the application, and an examination on the merits follows herewith.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 25-26, 28, 32-33, 35-36 and 38-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 25-26, 28, 32-33, 35-36 and 38-40 are not tangible. The preamble of independent claims 25, 33 and 35 recites a "A software program for enabling a plurality of users to interact in a virtual space, wherein each user has a computer associated therewith, wherein each computer has a client process associated therewith, wherein each client process has an avatar associated therewith, and wherein each client process is in communication with a server process, wherein the software program includes instructions for:", which is directed to, directed to software, per se, lacking storage on a medium which enables any underlying functionality to occur. The claimed features and elements of independent claims 25, 33 and 35 do not include hardware components or features that are necessarily implemented in hardware. Therefore, the claimed features of claims 25, 33 and 35 are actually a

software, or at best, directed to an arrangement of software, and software claimed by itself without being executed or implemented on a computer medium, is intangible.

To expedite a complete examination of the instant application, the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of the applicant amending these claims to place them within the four statutory categories of invention.

### ***Allowable Subject Matter***

Claims 5-8, 18-20 and 22-24 are allowed over the prior art of record.

The following is a statement of reasons for the indication of allowable subject matter. Applicant has claimed uniquely distinct features in the instant invention which are not found in the prior art either singularly or in combination of a method for enabling a first user to interact with other users in a virtual space, wherein the first user and the other users each have an avatar and a client process associated therewith, and wherein each client process is in communication with a server process comprising: (a) receiving a position of at least some of the other users' avatars from the server process; and (b) determining from the received positions a set of the other users' avatars that are to be displayed to the first user; wherein steps (a) and (b) are formed by the client process associated with the first user. The present invention is directed to these features are not found or suggested in the prior art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see PTO-892).

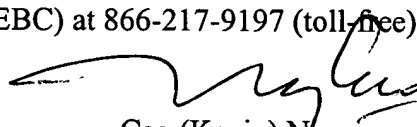
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (571)272-4053. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571)272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cao (Kevin) Nguyen  
Primary Examiner  
Art Unit 2173

08/02/06